From: Mike Bird [redacted]
Sent: 04 November 2019 15:55
To: Jones, Hefin <HEFIN.JONES@planninginspectorate.gov.uk>; Hall, Paige [redacted]
Cc: Cleve Hill Solar Park <CleveHillSolarPark@planninginspectorate.gov.uk>; [redacted]
Subject: Cleve Hill Solar Park - Additional Submission re: Drax Repower & Energy Storage consultation

Dear Hefin,

Cleve Hill Solar Park - Additional Submission re: Drax Repower & Energy Storage consultation

Please find attached an Additional Legal Submission prepared by Pinsent Masons LLP on behalf of the Applicant relating to the recent Drax Repower DCO decision and consultation by BEIS re: energy storage.

Kind regards,

Mike

Michael Bird

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CLEVE HILL SOLAR PARK

ADDITIONAL SUBMISSION - LEGAL SUBMISSIONS ON THE RECENT DRAX REPOWER DCO DECISION AND CONSULTATION BY BEIS RE: ENERGY STORAGE

November 2019
Revision A

Submitted: Additional Submission

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CLEVE HILL
SOLAR PARK

LEGAL SUBMISSIONS ON THE RECENT DRAX REPOWER DCO DECISION AND CONSULTATION BY BEIS RE ENERGY STORAGE

List of Abbreviations

Act	Planning Act 2008
Applicant	Cleve Hill Solar Park Limited
Application	The application for a DCO in respect of the CHSP made on 16 November 2018 bearing reference EN010085
Associated Development	Associated Development as defined in the Act
BEIS	The Department for Business Energy & Industrial Strategy
CHSP	Cleve Hill Solar Park
Consultation	"The planning system for electricity storage: follow up consultation", published on 15 October 2019 by the Smart Energy Team at BEIS[1]
DCO	Development Consent Order
Decision Letter	The decision letter dated 4 October 2019 bearing reference EN010091 confirming the grant of the Drax Order[2]
Drax Order	The Drax Power (Generating Stations) Order 2019 made on 4 October 2019
ExA	Examining Authority
Guidance	The guidance published by the Minister on 26 April 2013 entitled "Planning Act 2008: associated development applications for major infrastructure projects"[3]
Minister	The Minister for Housing, Communities & Local Government
NPS	National Policy Statement EN-1
NSIP	Nationally Significant Infrastructure Project, in this case comprising onshore generating stations with a generating capacity in excess of 50MW
Secretary of State	The Secretary of State for BEIS

1. INTRODUCTION

1.1 On 4 October 2019 the Secretary of State issued the Decision Letter granting the Drax Order, subsequent to which BEIS published the Consultation, both are relevant to the Application. This Legal Submission addresses the relevance of the Decision Letter and Consultation in the context of the CHSP. It has been prepared by Pinsent Masons LLP on behalf of the Applicant.

2. THE DRAX ORDER & DECISION LETTER

2.1 There are three key aspects of the Decision Letter that the ExA may find instructive in relation to the Application: first the Secretary of State's consideration of the NPSs and need; second, her consideration of energy storage as an NSIP in its own right and as Associated Development; and third, the weight to be given to the "Net Zero" targets in the context of climate change.

Secretary of State's consideration of the NPS and need

2.2 The Decision Letter at paragraphs 4.4 to 4.20 sets out the Secretary of State's view on the relevance of the NPSs and need, and the weight to be afforded to both. The relevant paragraphs are set out below.

[1] https://www.gov.uk/government/consultations/the-planning-system-for-electricity-storage-follow-up-consultation

[2] https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010091/EN010091-001251-Drax%20Re-Powering%20Decision%20Letter%20of%204%20October%202019%20Signature%20Copy.pdf

[3] https://www.gov.uk/government/publications/planning-act-2008-associated-development-applications-for-major-infrastructure-projects

"4.4 The Secretary of State notes that this subject [The Principle of the Proposed Development and Conformity with National Policy Statements] formed the overriding principal issue in the Examination [ER 5.2.1]. The ExA's view was that there were two key relevant issues. Firstly, whether the need for the Development was a matter before the Secretary of State and secondly, if so, the individual contribution that the Development would make to meeting identified need [ER 5.2.4]. The ExA concluded that EN-1 draws a distinction between the need for energy nationally significant infrastructure projects ("NSIPs") in general and the need for any particular development and that the former did not axiomatically support the latter [ER 5.2.21]. The ExA therefore determined that it was necessary to examine the individual contribution of the Development towards meeting need against the three overarching policy objectives underpinning the Overarching National Policy Statement for Energy (EN-1), namely security of energy supply, energy affordability and decarbonisation [ER 5.2.25], and that, in doing so, it was appropriate to take into account evidence of changes in energy generation since the publication of EN-1 in 2011 [ER 5.2.23].

4.13 The Secretary of State has considered the assessment that the ExA has undertaken to determine whether the Development would meet an identified need for gas generation capacity by reference to the high-level objectives of security of supply, affordability and decarbonisation. However, the Secretary of State is of the view that the NPSs clearly set out the specific planning policies which the Government believes both respect the principles of sustainable development and are capable of facilitating, for the foreseeable future, the consenting of energy infrastructure on the scale and of the kinds necessary to help us maintain, safe, secure, affordable and increasingly low carbon supplies of energy. The Secretary of State's view is that these policies, including the presumption in favour of granting consent for energy NSIPs in EN-1 have already taken account of the need to achieve security of supply, affordability and decarbonisation at a strategic level. The NPSs do not, therefore, require decision makers to go beyond the specific and relevant policies they contain to assess individual applications against those high level objectives and there was no need, therefore, for the ExA to make a judgement on those issues when assessing whether this specific application was in accordance with the NPS.

4.18….The Secretary of State considers that applications for development consent for energy NSIPs for which a need has been identified by the NPS should be assessed on the basis that they will contribute towards meeting that need and that this contribution should be given significant weight.

4.19 The Secretary of State notes that paragraph 3.2.3 of EN-1 states that "the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure". The Secretary of State has, therefore, considered whether, in light of the ExA's findings, there is any reason why she should not attribute substantial weight to the Development's contribution to meeting the identified need for new CCR fossil fuel generation infrastructure in this case. In particular, she has considered the ExA's views on the changes in energy generation since the EN-1 was published in 2011, and the implications of current models and projections of future demand for gas-fired electricity generation and the evidence regarding the pipeline of consented gas-fired infrastructure which the ExA considered to be relevant [ER 5.2.40-43].

4.20 The Secretary of State's consideration of the ExA's position is that (i) whilst a number of other schemes may have planning consent, there is no guarantee that these will reach completion; (ii) paragraph 3.3.18 of EN-1 sets out that the Updated Energy and Emissions Projections (on which the ExA partially relies on to reach its conclusions on current levels of need) do not "reflect a desired or preferred outcome for the Government in relation to the need for additional generating or the types of electricity required"; and (iii) paragraph 3.1.2 of EN-1 explains that "[i]t is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set target for or limits on different technologies". These points are reinforced elsewhere in EN-1, for example in paragraphs 2.2.4 and 2.2.19, which explain that the planning system will complement other commercial and market based mechanisms and rules, incentives and signals set by Government to deliver the types of infrastructure that are needed in the places where it is acceptable in planning terms – decisions on which consented energy schemes to build will therefore also be driven by these factors."

2.3 Drawing the above together, the Secretary of State's clear view is that: (i) the need for energy NSIPs is set out in EN-1; (ii) the policies in EN-1, including the presumption in favour of granting consent for energy NSIPs have already taken account of the need to achieve security of supply, affordability and decarbonisation at a strategic level; (iii) it is not necessary to assess the contribution a particular NSIP will make to that identified need or those objectives; (iv) the general contribution to meeting the identified need and objectives by an NSIP should be given significant weight; (v) whilst a number of other schemes may have planning consent, there is no guarantee that these will reach completion; and (vi) Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.

2.4 Whist the policies in EN-1 are of general relevance to all forms of energy generating stations, including renewable energy projects, it is acknowledged that solar and energy storage technologies are not included in EN-3, hence why the Application has been prepared with regard to section 105 of the Act. The assessment principles arising from the Decision Letter are important and relevant in the decision making for the Application. Furthermore, to support those principles, the Application is accompanied by a Statement of Need [APP-253] and Addendum [AS-008] (as supplemented by written representations to this Examination) which clearly sets out that CHSP would make meaningful and timely contributions to GB decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, thereby addressing all important aspects of emerging Government policy. Moreover, submissions by other parties about the contribution made by planned offshore wind farms and other technologies are not relevant. As the Secretary of State says, there is no guarantee those projects will reach completion, and even if they are completed, Government does not consider it appropriate to limit different types of technology.

Energy Storage

2.5 The Decision Letter at paragraph 5.1 to 5.5 sets out the Secretary of State's view on battery storage in the context of the Act, in response to the ExA's recommendation that it should be treated as Associated Development. The relevant paragraphs are set out below.

"5.1 The ExA considered whether the Battery Storage Units that are included in the Application should be classed as NSIPs as defined in the 2008 Act (for which development consent is required) or whether they constituted associated development, again, as defined in the 2008 Act, which may be included in an order granting development consent [ER 3.2.1 – 3.2.12]. The Applicant's position was that they were classified as NSIPs but the ExA concluded that because sections 14 and 15 of the Act had not been amended to refer specifically to battery storage as a form of generating station, this classification represented a policy position rather than a statement of law. However, the ExA also concluded that the Battery Storage Units met the test for associated development which was capable of being included in the Order.

5.2 It is the Government's view that Battery Storage Facilities constitute a form of "generating station" within the meaning of the legislation and, therefore, they can currently qualify as NSIPs if they meet the criteria set out in sections 14 and 15 of the Act. It is not correct to say that the Government's position to treat Battery Storage Facilities as NSIPs is simply a matter of policy. The Secretary of State, therefore, disagrees with the way in which the ExA has characterised the Government's position and concludes that the Battery Storage Facilities should be categorised as NSIPs in this case.

5.3 The Application is made on the basis that the Development includes up to four individual generating stations (Unit X and Unit Y and the two related Battery Storage Units). The ExA concluded that the Battery Storage Units would, in fact be reliant on Units X and Y and would be incapable of independent operation [ER 3.2.9]. It is arguable, therefore, that each of the Battery Storage Units in fact constitutes an integral part of Units X and Y respectively. However, the Secretary of State does not consider it is necessary to resolve this matter in this case given that each of the prospective generating stations exceeds the capacity thresholds necessary to be considered an NSIP in its own right. In future, similar projects may need to consider this issue to determine how Battery Storage Facilities which do not independently meet the NSIP thresholds should be categorised within application for development consent under the Act.

5.4 The Secretary of State also takes issue with the ExA's conclusion [ER 3.2.11] that, were she to conclude that the Battery Storage Units are NSIPs, then this part of the Application should be considered against section 105 of the 2008 Act because none of the NPSs has effect in relation to battery storage developments.

5.5 The Secretary of State's analysis of the 2008 Act's provisions in relation to this matter is that the Application should be treated as a whole and determined under section 104 (Decisions in cases where national policy statement has effect). This section, and section 105 (Decisions in case where no national policy statement has effect) are mutually exclusive and it would not be correct to determine different parts of the Application under different provisions. In any event, the Secretary of State does not consider that determining the whole application under section 104 has a material impact on the overall outcome in this case. Section 104(2)(d) of the 2008 Act enables the Secretary of State to give consideration to any important and relevant matters appropriate to this aspect of the application. In this regard, the Secretary of State agrees with the ExA that the planning impacts and environmental effects of the Development including battery storage have been assessed and, therefore, its acceptability can be determined on the strength of the ExA's Report [ER 3.2.12]. The Secretary of State further notes that, while there is no National Policy Statement which explicitly covers battery storage projects, the Overarching National Policy Statement for Energy (EN-1) does consider that the storage of energy will, in general terms, play an important role in the United Kingdom`s energy mix. This position is reinforced in the 'Smart Systems and Flexibility Plan' published by BEIS and OFGEM in July 2017. In this case the Battery Storage Facilities would support Unit X and Unit Y in providing fast and flexible electricity export and other ancillary services. Therefore, the Secretary of State's conclusions regarding the need for the Development set out at paragraph 4.20 above are unaltered."

2.6 It will be clear from the above that the Secretary of State is of the view that whilst battery storage may, on its individual merits, be capable of constituting Associated Development, if it exceeds the 50MW threshold set out in the Act, it is (at the time of writing of the Decision Letter) to be treated as an NSIP for the purposes of the determining an application for development consent under the Act. Therefore, the Decision Letter reinforces the approach taken by the Applicant, i.e. to include energy storage in the Application as an NSIP in its own right because it's anticipated capacity will exceed 50MW. The effect of the Consultation is considered in section 3 below.

Climate Change: "Net Zero"

2.7 The Decision Letter at paragraphs 5.6 to 5.9 sets out the Secretary of State's view on The Climate Change Act 2008 (2050 Target Amendment) Order 2019: "Net Zero". The relevant paragraphs are set out below.

"5.6 As noted above, the policies contained in the NPSs reflect wider UK decarbonisation objectives arising from the legally binding targets set out in the Climate Change Act 2008 ("the CCA") which, as originally enacted, required an at least 80% reduction in the UK's GHGs emissions by 2050 when measured against the 1990 baseline for such emissions. On 26 June 2019, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 was made (SI 2019 No.1056), coming into force the following day. This amended the CCA by replacing the 80% target with 100%.

5.7 The Secretary of State considers that the amendment to the CCA, which sets a new legally binding target of an at least 100% reduction in GHG emissions against the 1990 benchmark ("Net Zero"), is a matter which is both important and relevant to the decision on whether to grant consent for the Development and that regard should be had to it when determining the Application. The new target post-dates the NPSs and, while there is a reference in the ExA's Report to Net Zero, the ExA does not deal with its implications due to the timing of the amendment to the CCA [ER 3.4.2].

5.8 The Secretary of State notes with regard to the amendment to the CCA that it does not alter the policy set out in the National Policy Statements which still form the basis for decision making under the Act. Section 2.2 of EN-1 explains how climate change and the UK's GHG emissions targets contained in the CCA have been taken into account in preparing the suite of Energy

NPSs. As paragraph 2.2.6 of EN-1 makes clear, the relevant NPSs were drafted considering a variety of illustrative pathways , including some in which "electricity generation would need to be virtually [greenhouse gas] emission-free, given that we would expect some emissions from industrial and agricultural processes, transport and waste to persist." The policies contained in the relevant NPSs regarding the treatment of GHG emissions from energy infrastructure continue to have full effect.

5.9 The move to Net Zero is not in itself incompatible with the existing policy in that there are a range of potential pathways that will bring about a minimum 100% reduction in the UK's emissions. While the relevant NPSs do not preclude the granting of consent for developments which may give rise to emissions of GHGs provided that they comply with any relevant NPS policies or requirements which support decarbonisation of energy infrastructure (such as CCR requirements), potential pathways may rely in future on other infrastructure or mechanisms outside the planning regime offset or limit those emissions to help achieve Net Zero. Therefore, the Secretary of State does not consider that Net Zero currently justifies determining the application otherwise than in accordance with the relevant NPSs or attributing the Development's negative GHG emissions impacts any greater weight in the planning balance. In addition, like the ExA, the Secretary of State does not consider there to be any evidence that granting consent for the Development would in itself result in a direct breach of the duties enshrined in the CCA, given the scope of the targets contained in the CCA which apply across many different sectors of the economy. This remains the case following the move to Net Zero and therefore she does not consider that the exception in section 104(5) of the 2008 Act should apply in this case."

2.8 Points arising from the above relevant to the Application are:

2.8.1 the Secretary of State considers that the amendment to the Climate Change Act 2008, which sets a new legally binding target of an at least 100% reduction in GHG emissions against the 1990 benchmark ("Net Zero"), is a matter which is both important and relevant to a decision on whether to grant consent for an NSIP and that regard should be had to it when determining a DCO application;

2.8.2 the amendment to the Climate Change Act 2008 does not alter the policy set out in the NPSs which still form the basis for decision making under the Act;

2.8.3 the relevant NPSs were drafted considering a variety of illustrative pathways, including some in which "electricity generation would need to be virtually [greenhouse gas] emission-free, given that we would expect some emissions from industrial and agricultural processes, transport and waste to persist."

2.9 Renewable energy NSIPs, such as CHSP, would make a significant contribution to the "Net Zero" target, by generating electricity without any carbon emissions, and replacing (or displacing) carbon producing conventional power plants from the grid.

3. THE CONSULTATION

3.1 The Consultation sets out BEIS' new proposal to carve out electricity storage, except pumped hydro, from the NSIP regime in England and Wales. The Consultation states in Chapter 2 that:

"*The effect of this policy is that standalone electricity storage (except pumped hydro) in England will always be consented under the TCPA regime, unless a request is made and granted by the Secretary of State to direct the project into the NSIP regime under s.35 of the Planning Act 2008. For composite projects involving storage, the storage element of a new or extended composite generating station would never trigger the NSIP capacity threshold regime by itself. However, developers will be able to include storage within a Development Consent Order as associated development if, in a composite scenario, the other form of generation has fallen into the NSIP regime. These changes do not impact the overall classification of storage and it will continue to be considered as a distinct subset of generation for planning and licensing purposes*."

3.2 The Consultation acknowledges that to achieve the proposed carve out BEIS will need to make an order under section 14(3) of the Act, but no timescale is given for making that order.

3.3 The Consultation is relevant to the Application because:

3.3.1 the CHSP includes electricity storage as a standalone NSIP, which accords with the Secretary of State's view expressed in the Decision Letter for the Drax Order; and

3.3.2 if the Government decides to make legislation to give effect to the changes set out in the Consultation, then depending on when the new legislation is made, it could have a bearing on how the energy storage element of the CHSP is treated in the DCO, i.e. as an NSIP, or Associated Development.

3.4 It is submitted that if the new legislation proposed by the Consultation is made:

(a) before the Application is determined, such that electricity storage is carved out of the NSIP regime, then the electricity storage comprised in the CHSP may constitute Associated Development, and Schedule 1 of the made DCO should reflect that; and

(b) after the Application is determined, then the Secretary of State's Decision Letter relating to the Drax Order applies, i.e. the electricity storage comprised in the CHSP constitutes an NSIP.

4. Implications of the Consultation for CHSP

4.1 In view of paragraphs 3.3 and 3.4 above, it is necessary to consider further the electricity storage element of the CHSP, assuming legislation is made in accordance with the Consultation before the Application is determined, such that electricity storage does not automatically qualify as an NSIP.

4.2 The Guidance sets out the legal tests that determine what may constitute Associated Development (sub-section (2) of 115 of the Act), and the core principles that the Secretary of State will take into account when considering the same point. These are considered below.

Section 115 of the Act

4.3 In terms of the legislative tests, it is sufficient for this Application to demonstrate that sub-section 115(2)(a) applies, i.e. that the electricity storage "*is associated with the development within subsection (1)(a) (or any part of it)*", namely the "*development for which development consent is required*", which in this case would be the solar array with a maximum generating capacity expected to exceed 50MW. The matters set out in the other subsections of section 115 of the Act are not applicable to this Application. It is submitted that as a purpose of the electricity storage comprised in the Application is to store electricity generated by the solar array NSIP there is sufficient nexus between those two elements of the project to satisfy section 115(2)(a) of the Act.

4.4 Paragraph 5 of the Guidance sets out the core principles that the Secretary of State will take into account when considering whether development constitutes Associated Development. These have been included in the table that follows, with explanation of how the electricity storage comprised in the CHSP satisfies those principles.

Core Principles (Para 5)	**Relevance to the Application and the CHSP**
(i) The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help	The electricity storage comprised in the Application will, at least in part, store electricity generated by the solar array NSIP. It will ensure that power generated by the solar array can be delivered to the National Electricity Transmission System when it is required and not just during periods of high solar irradiation. The electricity storage facility will support the operation of the solar NSIP through provision of ancillary and balancing services as

address its impacts.	explained in Chapter 5 of the Statement of Need [APP-253].
(ii) Associated development should not be an aim in itself but should be subordinate to the principal development.	The Statement of Need [APP-253] explains, at Chapter 5, Section vi and following, how increasing renewable energy generation requires increased integration measures in order to operate the National Electricity Transmission System securely from timeframes of minutes to weeks and months. Electricity storage is one such integration measure, and the benefits of storage, and specifically co-located storage, as an integration measure for solar generation, are described in Chapter 5, Section vii. While the co-location of solar generation assets with energy storage assets is not essential for either asset to make a significant contribution to the future operation of the NETS, Table 5.5 in the same Statement of Need demonstrates that the co-location of those assets enables additional beneficial operational capabilities to be accessed for system benefit. The electricity storage facility would therefore not be an aim in itself but would be subordinate to the principal development, i.e. the solar array.
(iii) Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the cost of the principal development. This does not mean that the applicant cannot cross-subsidise, but if part of a proposal is only necessary as a means of cross-subsidising the principal development then that part should not be treated as associated development	As described in the Statement of Need [APP-253], in the points listed in answer to key principle (ii) above, the electricity storage comprised in the Application is not required only as a source of revenue or to cross-subsidise the cost of the principal development, i.e. the solar array. See also Statement of Need, paragraph 7.2.5.
(iv) Associated development should be proportionate to the nature and scale of the principal development. However, this core principle should not be read as excluding associated infrastructure development (such as a network connection) that is on a larger scale than is necessary to serve the principal development if that associated infrastructure provides capacity that is likely to be required for another proposed major infrastructure project. When deciding whether it is appropriate for infrastructure which is on a larger scale than is necessary to serve a project to be treated as associated development, each	The electricity storage comprised in the Application is proportionate to the principal development in nature and scale because: (a) both the solar array and electricity storage facility constitute electrical infrastructure; (b) the capacity of that electricity storage facility is anticipated to be equal to that of the solar array, i.e. c.350MW, such that it may import the total electrical power generated by the array and export that power to the National Electricity Transmission System at the same rate; and (c) the land required for the electricity storage facility measures 5.2ha (without bund) or 6.55ha (with bund), which equates to 1.59% (without

application will have to be assessed on its own merits. For example, the Secretary of State will have regard to all relevant matters including whether a future application is proposed to be made by the same or related developer as the current application, the degree of physical proximity of the proposed application to the current application, and the time period in which a future application is proposed to be submitted	bund) or 1.99% (with bund) of the total area of land required for the solar array of 327.6 ha. Therefore, in terms of storage capacity and land take, the energy storage facility is proportionate to the solar array in nature and scale.

4.5 Paragraph 6 of the Guidance also states that it "is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project, for example (where consistent with the core principles above), a grid connection for a commercial power station". Electricity storage is typical of the infrastructure currently being brought forward alongside solar and other forms of generating station, both conventional and renewable power. Indeed, this is a balanced power solution encouraged by the Government (the Consultation makes this clear) and National Grid's Future Energy Scenarios. More detail in this regard is set out in Chapter 5 of the Statement of Need [APP-253]. Drax Repower (EN010091), Hornsea 4 Offshore Wind Farm (EN010098), and Sunnica Energy Farm (EN010106) are current examples of gas, wind and solar NSIPs being brought forward alongside electricity storage in single applications, as is the case for CHSP.

4.6 In summary, the electricity storage comprised in the CHSP will provide the opportunity to store, and provide balancing and ancillary services to complement the electricity generated by the solar generating station. It also accords with the requirements of section 115 of the Act and the core principles set out in the Guidance. This means that the electricity storage comprised in the Application may constitute Associated Development should it be removed from the NSIP regime in the future.

5. CONCLUSIONS

5.1 This legal submission has been prepared by Pinsent Masons LLP for the Applicant and comments on salient points arising from the Decision Letter relating to the Drax Order and the Consultation, which the ExA may find instructive in relation to the Application.

5.2 It is clearly the Secretary of State's view that the NPS prescribe a presumption in favour of energy-related NSIPs and identify the national need, against which it is not necessary to assess the specific contribution made by such a project to that need.

5.3 It is also her view that until such time as the Act is amended, energy storage proposals, which exceed 50MW generating capacity, such as those comprised in the Application, constitute an NSIP in their own right. In due course, if legislation is changed, the Secretary of State's view is that the same type of facility included in a DCO application may be treated as Associated Development.

Pinsent Masons LLP

November 2019